



# Arizona State Retirement System

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WWW.AZASRS.GOV

## Employer Information Sheet

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### **WITHHOLDING CONTRIBUTIONS FROM TERMINATION PAY**

Prior to January 1, 1984, compensation was defined as the amount actually received by the participant for remuneration for employment from an employer on an hourly or salaried basis, including any incentive compensation, overtime or other irregular payments (former § 38-781.01).

The definition (§ 38-711) was amended for members hired on or after January 1, 1984, to exclude "lump sum payments paid on termination of employment, for accumulated vacation or annual leave, sick leave, compensatory time or any other form of termination pay, whether the payments are made in one payment or by installments over a period of time."

There are a number of related questions regarding the treatment of termination pay and post-retirement payments due to changes in the law and changes in employers offering early retirement incentive programs. The basic question is whether certain payments are included in "compensation" for retirement benefit calculations.

Arizona Attorney General Opinion No. 101-004 (January 24, 2001) concluded that compensation not owed until after retirement could not be considered in calculating benefits. The ASRS applies the following rules to termination pay in order to comply with the statutes and Attorney General Opinion No. 101-004:

- 1) All payments made or legally payable to a member up to the date of retirement, excluding termination payments for post-1984 members, will be considered in the benefits calculation.
- 2) Payments made after a member's retirement date that were not legally payable at the retirement date will not be considered in the benefits calculation. However, any payments for performance that are earned prior to termination are included as compensation, even if paid after termination, and will be considered in the benefits calculation.
- 3) Retirement contributions *are* taken out of the termination pay at the current contribution rate in effect at the time of payment. Long Term Disability payments *are not* taken out of the termination pay.

*This fact sheet does not replace statutory and rule requirements. Arizona Revised Statutes, the Arizona Administrative Code along with the federal code for both the IRS and Social Security Title 218, shall be final authority.*